



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BUFFALO PROPERTIES INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPC

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the *Act*") for an Order of Possession for:

- an Order of Possession for cause, pursuant to section 55.

While the landlord's agents attended the hearing by way of conference call, the tenant did not. I waited until 9:49 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord's agents were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord's agents testified that the tenant was served with the landlord's application for dispute resolution hearing package and evidence on October 10, 2018 by way of registered mail to the rental address. The landlord provided a Canada Post tracking number in their evidence. In accordance with sections 88, 89 and 90 of the *Act*, I find that the tenant deemed served with the landlord's application and evidence on October 15, 2018, five days after its registered mailing.

The landlord's agents testified that the tenant was personally served with the landlord's 1 Month Notice to End Tenancy for Cause ('1 Month Notice') on August 22, 2018. In accordance with section 88 of the *Act*, I find that the tenant duly served with the 1 Month Notice on August 22, 2018.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for cause?

Background and Evidence

The landlord's agents testified regarding the following facts. This fixed-term tenancy began on August 1, 2018 with monthly rent in the amount of \$5,500.00 payable on the first day of each month. The landlord collected a security deposit in the amount of \$2,750.00 for this tenancy, and still holds that deposit.

The landlord issued the 1 Month Notice for the following reasons:

Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

Tenant has allowed an unreasonable number of occupants in the unit/site.

Tenant has assigned or sublet the rental unit/site without landlord's written consent.

The landlord's agents testified that after receiving multiple bylaw infraction letters from the municipality, the landlord performed an inspection of the property and rental unit. The landlord discovered that the tenant had sublet the home to multiple parties without their knowledge or permission.

Analysis

Section 47 of the *Act* provides that upon receipt of a notice to end tenancy for cause the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. I find that the tenant has failed to file an application for dispute resolution within the ten days of service granted under section 47(4) of the *Act*. Accordingly, I find that the tenant is conclusively presumed under section 47(5) of the *Act* to have accepted that the tenancy ended on the effective date of the 1 Month Notice, September 30, 2018. I find that the landlord's 1 Month Notice complies with section 52 of the *Act*.

In this case, this required the tenant and anyone on the premises to vacate the premises by September 30, 2018. As this has not occurred, I find that the landlord is entitled to a two (2) day Order of Possession against the tenant and any other occupant residing at the rental address, pursuant to section 55 of the *Act*.

Conclusion

I grant an Order of Possession to the landlord effective **two (2) days after service on the tenant**. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: November 19, 2018

Residential Tenancy Branch